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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,677	02/01/2006	Armando Annunziato	09952.0023	9211
22852	7590	10/22/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER VU, MICHAEL T	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 10/22/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/566,677

Applicant(s)

ANNUNZIATO ET AL.

Examiner

MICHAEL T. VU

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617

On page 3 of Applicant's remarks, Applicant argues that Standley does not disclose or suggest "defining at least one cost function to be optimized, said at least one cost function being indicative of the quality of service of at least one class of service rendered by the network", lines 8-10. And Yea does not disclose or suggest "defining at least one cost function to be optimized, said at least one cost function being indicative of the quality of service of at least one class of service rendered by the network", lines 8-11 on page 4.

In response, Examiner maintains that Standley indeed discloses that the design of wireless network infrastructure includes coverage area, geographic area, or location area that concern the quality of services such as infinite traffic sources, equal traffic density per source, and that lost calls are cleared, which are equated to the quality of service and/or cost function to be optimized (See Col. 11, lines 36-45), and (a quality of service parameter, Col. 12, lines 1-2).

Moreover, Standley explicitly discloses the quality of service to cover a smaller geographical areas as were available to cover a large areas (See Col. 12, lines 60-61).

Additional, Standley clearly discloses the cost function that related to the coverage areas that added to a convex function (Col. 17, lines 16-23, so that an optimal cost solution as the desired quality of service, Col. 17, lines 29-32).

However, Yea indeed explicitly discloses an algorithms a cost function is defined that weights system capacity of the network and signal quality (Col. 7, lines 55-64), see signal quality and network analyzes described on (Col. Col. 3, lines 17-36) for example pass loss data included the distances that covered the dropped calls and/or errors with respect signal quality for a given network status within service area (See Col. 9, lines 26-29) such that selected different changes to the identified parameters and/or select other network parameters to change that related to the cost function by the network server algorithm to determined a optimal solution based on selected signal quality and system capacity defined by the network operation and/or configuration (Col. 9, lines 44-52).

Furthermore, Yea discloses a system and method for monitoring network communication metrics, including metrics associated with communications as provided through a plurality of network resources, and thereby dynamically adjust operating parameters to redistribute network loading, or otherwise optimize network parameters such as the quality of service, i.g., traffic capacity, error rate, and or received power, etc. (See Col. 2, lines 16-29).

Additionally, Yea teaches the operating parameter adjustments are made dynamically to optimize network performance, such as to optimize call quality and capacity in the network. And further provided wherein network parameter adjustments are determined using switch metrics, as the dynamic adjustment of the network is based on the actual performance of the network and the network is optimized based upon criteria which is most important to the network (See Col. 3, line 61 to Col. 4, line 4), and claim 42 reads on the network performance and/or network parameter that indicated optimization information. And Yea further teach a controller optimizes both call quality and capacity in the network, although according to alternative embodiments the controller may optimize different parameters, such as the quality of service to minimize the number of calls dropped at the expense of network capacity are based on different cells and/or locations, geographical areas, etc. (See Col. 3, lines 17-36).

Finally, Yea teaches the network service area, cell sites that provide system access within each particular cell such that the aggregation of cells provides system access substantially throughout the network service area (See Col. 1, lines 39-43). And Yea further teaches the sectors or cells operating at or near capacity may experience less than optimal signal quality while sectors or cells operating at lower loading may experience superior signal

quality in which serves as the quality of service. Accordingly, sectorization efficiency is degraded when one sector reaches capacity (i.e., a sector in which the subscriber is located may have reached capacity, although capacity is available in other sectors of the BTS) that performed network parameter for providing the quality of service such as traffic capacity or received power signal quality.

From the above, the examiner believes that the rejection of claims 22-42 are proper and are therefore maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael T. Vu whose telephone number (571) 272-8131. The examiner can normally be reached on 8:30 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Charles N. Appiah can be reached on (571) 272-7904. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 272-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

/Michael T Vu/
Examiner AU-2617